IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 12TH SEPTEMBER 2007 / 21ST BHADRA 1929

WP(C).No. 7945 of 2007(U)

PETITIONER:

N.A.MOHAMMED, AGED 54 YEARS,
S/O.N.A.ABDULLA HAJEE, PARTNER M/S.ASHRAFF TILES
NAYAMAR MOOLA, VIDYA NAGAR P.O.,
KASARAGODE-671 123.

BY ADV. SRI.V.A.MUHAMMED
SRI.K.E.HAMZA

RESPONDENTS:

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1. KERALA STATE ELECTRICITY BOARD
REPRESENTED BY ITS SECRETARY, VYDHUTHI BHAVAN,
PATTOM, TRIVANDRUM.

2. EXECUTIVE ENGINEER,
ELECTRICAL DIVISION, KASARAGOD.

3. ASST.ENGINEER ELECTRICAL SECTION,
CHERKALA, KASARGOD.

4. SENIOR SUPERINTEND, ELECTRICAL
SECTION, CHERKALA, KASARAGOD.

BY ADV. SRI.P.P.THAJUDEEN, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.7945 of 2007

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Dated this the 12th day of September, 2007.

JUDGMENT

Heard counsel for the petitioner and Standing Counsel for KSEB. The petitioner is challenging Ext.P4 bill and Ext.P6 instalment scheme for payment of the same. The petitioner is billed for short-assessment on account of application of wrong multiplication factor in the original invoices. Therefore, demand for the actual consumption by applying correct multiplication factor cannot be challenged. However, I find KSEB has charged penal charges of Rs.11,254/- along with short-assessment which obviously cannot be demanded from the petitioner as the fault is of the KSEB as well in their failure to apply the correct multiplication factor while original bills were raised. So far as petitioner's challenge against demand of surcharge is concerned, it is not tenable because surcharge is demanded only because of instalment facility claimed by the petitioner and granted by KSEB. Surcharge is statutory interest which petitioner is bound to pay. In the circumstances, W.P. is partly allowed quashing the demand of penal charges of Rs.11,254/- with direction to respondents 3 and 4 to exclude the same from Ext.P6 instalment facility and proportionately

surcharge on the said amount. Revised statement should be given to the petitioner immediately on production of copy of this judgment by the petitioner to clear balance arrears in instalments.

C.N.RAMACHANDRAN NAIR
Judge

pms